

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

MARK CHRISTIANS,

Plaintiff,

vs.

DARRIN YOUNG, CHIEF WARDEN SDDOC PRISONS, INDIVIDUAL AND OFFICIAL CAPACITY; TROY PONTO, DEPUTY WARDEN SDSP, INDIVIDUAL AND OFFICIAL CAPACITY; JESSICA COOK, ASSOCIATE WARDEN SDSP/JAMESON, INDIVIDUAL AND OFFICIAL CAPACITY; BRENT FLUKE, WARDEN MDSP, INDIVIDUAL AND OFFICIAL CAPACITY; REBECCA SCHIEFFER, ASSOCIATE WARDEN MDSP, INDIVIDUAL AND OFFICIAL CAPACITY; ALEX REYES, ASSOCIATE WARDEN MDSP, INDIVIDUAL AND OFFICIAL CAPACITY; CODY HANSON, UNIT MANAGER JAMESON, INDIVIDUAL AND OFFICIAL CAPACITY; SETH HUGHES, UNIT MANAGER JAMESON, INDIVIDUAL AND OFFICIAL CAPACITY; NANCY CHRISTENSEN, UNIT MANGAER MDSP, INDIVIDUAL AND OFFICIAL CAPACITY; LT. MADDOX, LIEUTENANT MDSP, INDIVIDUAL AND OFFICIAL CAPACITY; D. EKEREN, UNIT COORDINATOR JAMESON, INDIVIDUAL AND OFFICIAL CAPACITY; NYREEN, UNIT COORDINATOR JAMESON, INDIVIDUAL AND OFFICIAL CAPACITY; UNNAMED UNIT COORDINATOR, JAMESON, INDIVIDUAL AND OFFICIAL CAPACITY; DEB EILERS, UNIT COORDINATOR MDSP, INDIVIDUAL AND OFFICIAL CAPACITY; LAURIE STRATMAN, UNIT COORDINATOR MDSP, INDIVIDUAL AND OFFICIAL CAPACITY; JULIE STEVENS, CASE MANAGER MDSP, INDIVIDUAL AND

4:20-CV-04083-LLP

ORDER GRANTING PLAINTIFF'S
MOTION TO PROCEED IN FORMA
PAUPERIS AND REQUIRING PLAINTIFF
TO PAY AN INTIAL PARTIAL FILING
FEE

OFFICIAL CAPACITY; JARED, CBM/SUMMIT SITE MANAGER MDSP, INDIVIDUAL AND OFFICIAL CAPACITY; KELLY, CBM/SUMMIT FOOD SERVICES WORKER MDSP, INDIVIDUAL AND OFFICIAL CAPACITY; MARLIN C. SEJONHAJR., SUMMIT PRESIDENT & CEO, INDIVIDUAL AND OFFICIAL CAPACITY; JOHN TRIEWEILER, SUMMIT DISTRICT MANAGER, INDIVIDUAL AND OFFICIAL CAPACITY; KEVIN TRIERWEILER, SITE MANAGER JAMESON, INDIVIDUAL AND OFFICIAL CAPACITY; PAMELA THOMAS, EXECUTIVE CHEF, SUMMIT CORRECTIONS, INDIVIDUAL AND OFFICIAL CAPACITY; NAOMI MCLAUGHLIN, SUMMIT DIRECTOR OF MARKETING, INDIVIDUAL AND OFFICIAL CAPACITY; JEFF GREEN, SUMMIT BUSINESS DEVELOPMENT DIRECTOR, INDIVIDUAL AND OFFICIAL CAPACITY; UNNAMED SUMMIT LICENSED DIETITIAN(S), INDIVIDUAL AND OFFICIAL CAPACITY; DIETARY ASSISTANTS, INDIVIDUAL AND OFFICIAL CAPACITY; DIRECTORS OF OPERATIONS, INDIVIDUAL AND OFFICIAL CAPACITY; DISTRICT MANAGERS, INDIVIDUAL AND OFFICIAL CAPACITY; FOOD SERVICE DIRECTORS, INDIVIDUAL AND OFFICIAL CAPACITY; ASSISTANT FOOD SERVICE DIRECTORS, INDIVIDUAL AND OFFICIAL CAPACITY; FOOD SERVICE WORKERS, INDIVIDUAL AND OFFICIAL CAPACITY; JUSTIN BARTHEL, DIRECTOR OF DIETARY SUMMIT, INDIVIDUAL AND OFFICIAL CAPACITY; AND SHANE SEJNOHA, SUMMIT VP OF OPERATIONS, INDIVIDUAL AND OFFICIAL CAPACITY;

Defendants.

Plaintiff, Mark Christians, filed a pro se civil rights lawsuit under 42 U.S.C. § 1983. Docket 1. Christians moves for leave to proceed in forma pauperis and provided the Court with his prisoner trust account report. Dockets 2 and 3.

Under the Prison Litigation Reform Act (PLRA), a prisoner who “brings a civil action or files an appeal in forma pauperis . . . shall be required to pay the full amount of a filing fee.” 28 U.S.C. § 1915(b)(1). The court may, however, accept partial payment of the initial filing fee where appropriate. Therefore, “ ‘[w]hen an inmate seeks pauper status, the only issue is whether the inmate pays the entire fee at the initiation of the proceedings or over a period of time under an installment plan.’ ” *Henderson v. Norris*, 129 F.3d 481, 483 (8th Cir. 1997) (quoting *McGore v. Wrigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997)).

The initial partial filing fee that accompanies an installment plan is calculated according to 28 U.S.C. § 1915(b)(1), which requires a payment of 20 percent of the greater of:

- (A) the average monthly deposits to the prisoner’s account; or
- (B) the average monthly balance in the prisoner’s account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

Christians has reported an average monthly balance for the past six months to his prisoner trust account of \$37.72, and an average monthly deposit of \$94.96. Docket 3. Based on this information, the court grants Christians leave to proceed in forma pauperis, but he must pay an initial partial filing fee of \$18.99 (20 percent of his average monthly deposit). Christians must pay the initial partial filing fee of **\$18.99 by June 29, 2020**. Failure to pay the filing fee by June 29, 2020, will result in dismissal without prejudice of Christians’s complaint.

Thus, it is ORDERED:

1. That Christians’s motion for leave to proceed in forma pauperis (Docket 2) is granted.

Christians will make a payment of **\$18.99 by June 29, 2020**, made payable to the Clerk,

U.S. District Court. If Christians does not pay the initial partial filing fee by June 29, 2020, his complaint will be dismissed without prejudice. The Court will conduct a 28 U.S.C. § 1915A screening after Christians pays his initial partial filing fee.

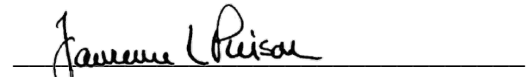
2. That the institution having custody of Christians is directed that whenever the amount in Christians's trust account, exclusive of funds available to him in his frozen account, exceeds \$10.00, monthly payments that equal 20 percent of the funds credited the preceding month to Christians's trust account shall be forwarded to the U.S. District Court Clerk's Office under to 28 U.S.C. § 1915(b)(1), until the \$350 filing fee is paid in full.

DATED May 28, 2020.

ATTEST:
MATTHEW W. THELEN, CLERK



BY THE COURT:



Lawrence L. Piersol
United States District Judge